

MT LEGISLATIVE HISTORY

Chapter 501 1981

Bill H (S) 17

Original bill & hist. ✓C

H. Committee on Taxation

S. Committee on Taxation

Hearing Date(s) Mar 13 ✓C

Hearing Date(s) Jan 09 ✓C

 C

Jan 21 ✓C

 C

 C

 C

 C

Date Out Apr 10 ✓C

 C

Did this bill originate in an interim committee? Yes No

Committee

Report

SENATE BILLS

COMMITTEE ON TAXATION

BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	~~XXXXX~~ DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CON- CURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CON- CURRED IN DATE
3	1-05-81	1-09-81		1-14-81					
6	1-05-81	1-13-81	Tabled	2-19-81					
7	1-05-81	1-20-81		2-12-81					
11	1-05-81	1-13-81		1-27-81					
12	1-05-81	1-12-81	Tabled by author						
13	1-05-81	1-20-81		2-12-81					
15	1-05-81	1-12-81							
15	rehearing	1-28-81				2-20-81			
✓ 17	1-05-81	1-09-81				2-20-81			
19	1-05-81	1-09-81		1-09-81					
20	1-05-81	1-13-81	Tabled	2-19-81					
21	1-15-81	1-26-81				2-24-81			
30	1-05-81	1-19-81		2-05-81					
31	1-05-81	1-19-81	Tabled						
34	1-05-81	1-15-81				1-19-81			
41	1-05-81	1-15-81				1-20-81			

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OF MONTANA

(Use Separate Sheet for Senate, House Bills, and Resolutions)

SENATE BILL NO. 17

INTRODUCED BY THOMAS

BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE

IN THE SENATE

January 5, 1981	Introduced and referred to Committee on Taxation.
February 21, 1981	Committee recommend bill do pass as amended. Report adopted.
February 23, 1981	Bill printed and placed on members' desks.
February 24, 1981	Second reading, do pass.
February 25, 1981	On motion rules suspended. Bill placed on calendar for third reading this day.
	Third reading, passed. Ayes, 50; Noes, 0. Transmitted to House.

IN THE HOUSE

March 2, 1981	Introduced and referred to Committee on Taxation.
April 11, 1981	Committee recommend bill be concurrent in as amended. Report adopted.
April 13, 1981	Second reading, concurrent in.
	On motion rules suspended and bill placed on third reading this day.
	Third reading, concurrent in as amended. Ayes, 94; Noes, 0.

IN THE SENATE

April 14, 1981	Returned from House with amendments.
April 15, 1981	Second reading, amendments concurred in.
April 16, 1981	Third reading, amendments concurred in. Ayes, 50; Noes, 0. Sent to enrolling. Reported correctly enrolled.

1 SENATE BILL NO. 17
2 INTRODUCED BY THOMAS
3 BY REQUEST OF THE REVENUE OVERSIGHT COMMITTEE
4
5 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE
6 PROCEDURE FOR PAYMENT OF TAXES AND LICENSE FEES UNDER
7 PROTEST; TO ALLOW THE STATE TAX APPEAL BOARD TO ORDER REFUND
8 OF PROTESTED TAXES AND LICENSE FEES IN CERTAIN CASES;
9 AMENDING SECTIONS 15-1-402, 15-1-403, 15-2-303, AND
10 15-16-601, MCA; AND REPEALING SECTIONS 15-1-401, 15-15-105,
11 AND 15-15-106, MCA."
12
13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
14 NEW SECTION. Section 1. Purpose. It is the purpose of
15 [this act] to insure an orderly procedure for the payment of
16 taxes and license fees under protest and to insure that a
17 taxpayer has exhausted all available remedies prior to
18 filing an appeal in district court.
19 NEW SECTION. Section 2. Board may order refund. (1) In
20 any appeal before the state tax appeal board when a taxpayer
21 has paid taxes or license fees under written protest and the
22 taxes or license fees are held by the treasurer of a unit of
23 local government in a protest fund, the state tax appeal
24 board shall enter judgment, exclusive of costs, if the board
25 finds that the taxes or license fees should be refunded.

1 (2) The state tax appeal board may not issue a judgment
2 pursuant to subsection (1) above if:
3 (a) the time period for appeal specified in 15-1-402(4)
4 has not passed; or
5 (b) the final decision of the state tax appeal board
6 has been appealed in accordance with 15-2-303.
7 Section 3. Section 15-16-601, MCA, is amended to read:
8 "15-16-601. Taxes or penalties illegally collected to
9 be refunded. (1) Any taxes, per centum, and costs paid more
10 than once or erroneously or illegally collected or any
11 amount of tax paid for which a taxpayer is entitled to a
12 refund under 15-16-612 or any part or portion of taxes paid
13 which were mistakenly computed on government bonus or
14 subsidy received by the taxpayer may, by order of the board
15 of county commissioners, be refunded by the county
16 treasurer. Whenever any payment shall have been made to the
17 state treasurer as provided in 15-1-504 and it shall
18 afterwards appear to the satisfaction of the board of county
19 commissioners that a portion of the money so paid should be
20 refunded as herein provided, said board of county
21 commissioners may refund such portion of said taxes,
22 penalties, and costs so paid to the state treasurer, and
23 upon the rendering of the report required by 15-1-505 the
24 county clerk and recorder shall certify to the state
25 auditor, in such form as the state auditor may prescribe,

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all amounts so refunded, and in the next settlement of the county treasurer with the state, the state auditor shall give the county treasurer credit for the state's portion of the amounts so refunded.

(2) Upon the entering of judgment under [section 2], the county commissioners of the affected county shall order a refund of such portion of the taxes or license fees as the state tax appeal board has judged should be refunded.

~~(2)~~(3) When any part of the taxes, penalties, or costs hereinbefore referred to were levied in behalf of any school district or municipal or other public corporation and collected by the county treasurer, the same may be refunded upon the order of the board of county commissioners.

~~(3)~~(4) No order for the refund of any taxes, license fees, per centum, or costs under this section shall be made except upon a claim therefor, verified by the person who has paid such tax, license fee, penalty, or costs or his guardian or, in case of his death, by his executor or administrator, which claim must be filed within 10 years after the date when the second half of such taxes would have become delinquent if the same had not been paid.

~~(4)~~(5) All refunds ordered to be paid by the board of county commissioners shall be paid by the county treasurer out of the general fund of the county, and the county treasurer shall then make such transfers from other county

funds and from state, school district, and other public corporation funds in his possession as may be necessary to reimburse the county general fund for payments made therefrom on account of such other funds."

Section 4. Section 15-1-402, MCA, is amended to read:

"15-1-402. Payment of taxes under protest -- action to recover. (1) ~~in all cases of levy of taxes, licenses, or other demands for public revenue which are deemed unlawful by the party whose property is thus taxed or from whom such tax or license is demanded or enforced, such party may before such tax or license becomes delinquent pay under written protest such portions of such tax or license deemed unlawful to the officers designated and authorized to collect the same, specifying the grounds of protest. Thereupon the party so paying or his legal representatives~~ The person upon whom a tax or license fee is being imposed may, before the tax or license fee becomes delinquent, pay under written protest that portion of the tax or license fee protested. The payment must:

(a) be made to the officer designated and authorized to collect it; and

(b) specify the grounds of protest.

(2) After having exhausted the appeals available under Title 15, chapters 2 and 15, a person or his legal representative may bring an action in any court of competent

1 jurisdiction against the officers to whom said ~~license--or~~
2 tax or license fee was paid or against the county or
3 municipality in whose behalf the same was collected and the
4 department of revenue.

5 (3) Both the officers to whom the ~~license-fee-or tax or~~
6 license fee was paid or the county or municipality in whose
7 behalf the same was collected and the department of revenue
8 must be served with timely summons and complaint within the
9 time prescribed.

10 (4) Any action instituted to recover any such portions
11 of ~~license-or tax or license fee~~ paid under protest shall be
12 commenced and summons timely served within 90 ~~60~~ days after
13 the date of payment-of-the-same the final decision of the
14 state tax appeal board.

15 (5) When any such ~~license-or protested tax or license~~
16 fee is payable in installments, the ~~--first--installment~~
17 ~~portion-of-such-tax-or-license-as-may-be-deemed-unlawful-may~~
18 ~~be-paid-under-written-protest-and-suit-commenced-and-summons~~
19 ~~served---to---recover---the---same---within---the---time---herein~~
20 ~~prescribed,--and--if--any--subsequent--installment--of--such~~
21 ~~license--or-tax-shall-become-due-or-payable-before-the-final~~
22 ~~determination-of-the-suit-commenced--to--recover--the--first~~
23 ~~installment--portion--paid--under--protest,~~ then such any
24 subsequent installment portion deemed considered unlawful
25 may also be paid under written protest and no ~~suit-or action~~

1 or suit need be commenced to recover the same, but the
2 determination of the ~~suit-or action~~ or suit commenced to
3 recover the first installment portion paid under protest
4 shall determine the right of the party paying such
5 subsequent installment to have the same or any part thereof
6 refunded to him.

7 (6) All such portions of ~~licenses-and taxes when-so and~~
8 license fees paid under protest shall be deposited by the
9 treasurer of the county or municipality to the credit of a
10 special fund to be designated as a protest fund and shall be
11 invested in interest-bearing deposits in local banks or
12 savings and loan associations and retained in such protest
13 fund until the final determination of any ~~suit-or action or~~
14 suit to recover the same.

15 (7) Nothing contained herein prohibits the investment
16 of the ~~monies money~~ of this fund in the state unified
17 investment program. The provision creating the special
18 protest fund does not apply to any payments made under
19 protest directly to the state.

20 (2)(3)(a) If no action is commenced within the time
21 herein specified or if such action be is commenced and
22 finally determined in favor of the county or municipality or
23 treasurer thereof, the amount of the protested portions of
24 the ~~license-or tax or license fee~~ shall be taken from such
25 the protest fund and deposited to the credit of the fund or

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funds to which the same property belongs, ~~but if,~~

(b) If such action is finally determined adversely to such a county or municipality or the treasurer thereof, then the treasurer shall, upon receiving a certified copy of the final judgment in said action from the state tax appeal board, or from a district court if the final action of the state tax appeal board is appealed in the time prescribed, refund to the person in whose favor such judgment is rendered the amount of such protested portions of the ~~license--or tax or license fee,~~ with costs of suit and interest at the rate currently paid on short-term interest-bearing time deposits in banks in the county or 5% a year, whichever is greater, from the date of payment under protest. If such action was commenced for the purpose of recovering the first installment portions of any such ~~license--or tax or license fee~~ and any subsequent installment thereof has been paid under protest as herein provided, then the county treasurer shall, at the time of refunding the amount of such first installment required by such judgment, also refund such portion of any subsequent installment as the person holding such judgment is entitled to recover, together with interest thereon at the rate of 6% a year from the date of payment under protest."

Section 5. Section 15-1-403, MCA, is amended to read:

"15-1-403. Assessment for taxation -- increase over

statement of owner. (1) Whenever any person has delivered to the department of revenue or its agent a sworn statement of his property subject to taxation as now provided by law and giving the estimated value of such property and the department or its agent shall increase such estimated value or add other property to such assessment list, the agent shall, at least 10 days prior to the meeting of the county tax appeal board, give to such person written notice of such change, which notice shall be substantially in the following form:

(Date)

Mr.:

A change has been made in your assessment list as follows:

(Set out and describe specifically changes made in list.)

....., Agent
Department of Revenue

(2) Such person may then appear before the county tax appeal board and contest the same. If the assessment of any such person has been added to or changed, either by the department or by the county tax appeal board, and such person has not been notified thereof and given an opportunity to contest the same before the county tax appeal board, the tax on such increased value or added property

1 shall, upon such facts being established, be adjudged by the
 2 court state tax appeal board to be void, and such facts and
 3 all questions relating thereto, when said tax has been paid
 4 under protest, may be heard and determined in the action
 5 provided for in 15-1-402. When--any--person--has--appeared
 6 before--the--county--tax--appeal--board--and--has--contested--the
 7 increase--in--the--estimated--value--of--his--property--or--the
 8 addition--of--other--property--to--his--assessment--list--and--has
 9 appealed--to--the--state--tax--appeal--board--from--any--action--or
 10 decision--with--reference--thereto--by--the--county--tax--appeal
 11 board--and--such--person--is--aggrieved--at--the--final--action--of
 12 the--state--tax--appeal--board--in--making--or--allowing--such
 13 increase--or--addition, he may pay the tax on such increase or
 14 addition--or--the--installments--thereof--if--payable--in
 15 installments--under--protest--in--the--manner--provided--by
 16 15-1-402 and thereupon and within the time prescribed and in
 17 the--manner--provided--by--15-1-402 may commence an action to
 18 recover such tax or installments and in such action contest
 19 and litigate the payment of such taxes on such increased
 20 value or added property on the same grounds and for the same
 21 reasons that he has contested the same before the county and
 22 state tax appeal boards and for no other reasons and on no
 23 other grounds; provided that all of the provisions of
 24 15-1-402 for the retention or refunding of taxes paid under
 25 protest shall apply to taxes paid under protest under this

1 section."

2 Section 6. Section 15-2-303, MCA, is amended to read:
 3 "15-2-303. Judicial review of contested cases. (1) Any
 4 party to an appeal before the state tax appeal board who is
 5 aggrieved by a final decision in a contested case is
 6 entitled to judicial review under this part.

7 (2) Proceedings for review shall be instituted by
 8 filing a petition in district court in the county wherein
 9 the taxable property or some portion thereof is located
 10 (except the taxpayer may, at his option, file in the
 11 district court of the first judicial district) and serving a
 12 copy of the petition on the state tax appeal board within 30
 13 60 days after service of the final decision of the state tax
 14 appeal board or, if a rehearing is requested, within 30 60
 15 days after the decision thereon. All parties to the appeal
 16 shall cause to be served on the state tax appeal board a
 17 copy of all pleadings and documents they shall file in such
 18 proceedings.

19 (3) Notwithstanding any other provision, proceedings
 20 for review of a decision by the state tax appeal board by a
 21 company under the jurisdiction of the public service
 22 commission shall be instituted in the district court of the
 23 first judicial district.

24 (4) Notwithstanding the provisions of 2-4-704(1), the
 25 court may, for good cause shown, permit additional evidence

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- 1 to be introduced."
- 2 Section 7. Repealer. Sections 15-1-401, 15-15-105, and
- 3 15-15-106, MCA, are repealed.

-End-

MINUTES OF THE MEETING
TAXATION COMMITTEE
MONTANA STATE SENATE

January 9, 1981

The first meeting of the Taxation Committee was called to order at 8:05 a.m. by Chairman Pat M. Goodover in Room 415 of the State Capitol Building.

ROLL CALL: All members present.

CONSIDERATION OF SENATE BILL 3: Senator Norman presented his bill explaining that it doesn't add or subtract anything, but allows the Department of Revenue more time to compute and collect taxes on new tax districts, school districts, etc., if they come in after January 1 of a given year. This bill proposes that the Department of Revenue may not be required to levy or compute a tax for any new taxing jurisdiction created, or for change in an existing jurisdiction, unless they are formally notified of its creation or change by January 1 of the year in which the taxes are to be levied.

County Assessor proponent Doug Campbell, Missoula County, testified that County Assessor's offices are having enough trouble getting tax assessment notices out on existing properties and that the additional assessment of new or changed jurisdictions causes delay in the notice process. Mr. Campbell said the new tax would have to be approved by County Commissioners and then assessors would levy the tax the following year. The present law states that new taxing jurisdictions will not be accepted unless approved by January 1 of each year. This law applies only to additions or changes in the districts.

Senator Towe said that Representative Earl Lory had an amendment regarding the amount allocated Consumer Council and Senator Towe asked Cort Harrington, Legislative Council staffer, to coordinate Rep. Lory's amendment with Senate Bill 3. Senate Bill 3 will be considered at a later date.

✓ CONSIDERATION OF SENATE BILL 17: Senator Thomas addressed the Committee on his bill. He said that the bill was initiated by the Revenue Oversight Committee as part of an interim study about payment of taxes under protest, and that 1) the party protesting must go through the tax appeals process before going to court unless the two parties mutually agree to by pass, and 2) all taxes that have been paid under protest and have been ruled by the board as incorrect may be ordered by the board to be refunded by the County Commissioners. Senator Thomas said difficulties have been encountered with the language in this bill and that within 2 or 3 days the Taxation Committee will be able to see some amendments.

Proponents

Bob Randall, State Tax Appeal Board member, said they have an enormous backlog of cases that have been appealed awaiting final disposition. He feels this legislation is needed so there would be a method whereby a taxpayer could pay his taxes under protest and that that portion be set aside so they can get the refund.

Mike Stephen, Montana Association of Counties, had two exceptions to the bill. He felt the process could be streamlined and that the tax process should be able to compute and adjust and leave the refund authority with the county commissioners at the local level. There was discussion regarding wording in Senate Bill 17 and it was decided that since there were to be amendments to it the bill would be discussed later and a decision reached at that time.

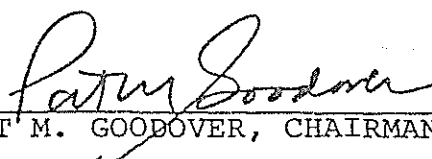
CONSIDERATION OF SENATE BILL 19:

Senator Bob Brown, author of SB19, explained that this bill simply makes the law clear and makes it possible for a tax protestor to have his appeal heard more quickly.

Mr. Bob Randall, proponent, said that ordinarily the County Tax Appeals Boards have finished their business by July or August, but with the roll-back tax and vehicle tax appeals that continue all year, the board needs some means that will allow them to meet longer if necessary. There were no opponents of the bill and no further questions from the Committee.

Mr. Randall wondered if an amendment might be in order for Senate Bill 19 regarding increased compensation for members of the Tax Appeals Boards. Present compensation is \$25.00/day, and this rate makes it difficult to get qualified people. He handed out sheets to the Committee explaining what the proposed increase would cost. (Sheet attached). Senator Towe asked the Committee if there was support for drafting a committee bill to take care of Mr. Randall's salary proposal. Senator McCallum didn't think that the Committee was ready, and said it was his understanding that a committee bill could be introduced at a later date.

Senator Bob Brown then moved that the Committee give a do pass recommendation on Senate Bill 19. The motion carried unanimously.


PAT M. GOODOVER, CHAIRMAN

January 21, 1981

Sen. Towe said his concern about non-profit is that the area most likely to be abused is the cash part. He said he would be inclined to support the bill for \$1000 limit, but not the \$100.

Senator Turnage said the problem is that the Supreme Court has seen its way clear to interpret our existing law to expand gambling. If you allow cash to get into anything, people will have a raffle machine at every checkout stand. He went on to say in 1947 the Legislature legalized slot machines and that they could be in non-profit social clubs. Every saloon in Montana was suddenly incorporated.

The hearing was closed on Senate Bill 85. It was decided to take it up again in executive session. The Chairman asked Cort Harrington to check with Jim Oppedahl and see about Sen. Thomas's amendments to his bill.

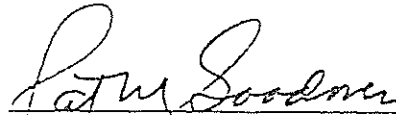
✓ RECONSIDERATION OF SENATE BILL 17: Sen. Elliott stated that section 4 referred to the period of time in which to protest, which reduced time from 90 days to 60 days. He suggested that be removed and changed back to 90 days, as he felt lots of cases are finally settled before a protest is filed within the last 30 days of the 90-day law.

Sen. Towe said on page 10 the time for appeal from a STAB decision is 30 days. There was a conflict between that and the 90 days for paying protested taxes. The idea was that it ought to be the same so we compromised to 60 days. Sen. Elliott thought that there would be no problem if mill levies were set if we extended the time because these are taxes that were assessed in July.

Sen. Healy requested his name be added as voting yes for the vote yesterday on adopting Dennis Burr's bill as a committee bill. This made the vote unanimous for adoption of the bill.

Sen. Steve Brown thought we should give Ellen Feaver SB 17 so we could begin getting fiscal ramifications.

The meeting was adjourned.


PAT M. GOODOVER, CHAIRMAN

STATUS SHEET

TAXATION COMMITTEE

47th Legislature

SENATE

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Out
SB 3	Amending 15-10-321 to not require the Dept of Revenue to levy for a change in taxing jurisdiction unless notified when...	Jan 20	Norman	March 5	Be concurred in March 5 Unan	March 6
✓ SB 17	To generally revise the procedure for payment of taxes and license fees under pro-text	March 2	Thomas	March 13	Be concurred in as amended Unan April 10 Nordtvedt	
SB 19	To provide for authorization of a county tax appeal board to meet beyond the normal time in certain cases.	Jan 15	Brown	March 16	Be concurred in as amended 1 opposed Harrington	
SB 30	To repeal the individual income tax surtax	Feb 10	Goodover	March 4	Be concurred in 4 opposed April 11	
SB 34	To eliminate the annual application requirement for Senior citizens to receive a preferential property classification	Jan 27	S. Brown	March 6	Be concurred in Unan March 6	March 7
SB 41	To classify as tax exempt Senior Citizen centers that are community service organizations established prior to July 1, 1981	Jan 29	Hafferman	March 9	Be concurred in Unan March 10	March 11

provision in present law to make the relief available to every one who paid the illegal levy. The Superintendent of Public Instruction's 1-mill levy was declared illegal, but only Keith Anderson, plaintiff in the suit, will get his taxes back, and no one else will. However, there is an agreement with the Office of Public Instruction that the money will be used against a future mill levy. If the Court determines the levy is illegal, it can refund taxes, hold the taxes for future levies, or whatever else would be workable. Presently, there are no remedies in the law for the District Court to apply other than returning the money to the person bringing the lawsuit.

Rep. Williams then moved that SENATE BILL 231 BE CONCURRENT. There were no OPPOSITIONS to the motion. The motion was carried unanimously. Rep. Williams asked Mr. Burr how many times there had been cases in Montana of illegal levies. Mr. Burr said it occurred very often. The Taxpayers Association and some of the major companies audit the levies put on by local government. If it is too late to take the levy off the books, a gentlemen's agreement is made to hold the money and use it for the future; this bill would formalize this practice.

Rep. Williams then moved that SENATE BILL 231 BE CONCURRENT. There were no OPPOSITIONS to the bill. Questions were asked. Rep. Williams asked Mr. Burr how many times there had been cases in Montana of illegal levies. Mr. Burr said it occurred very often. The Taxpayers Association and some of the major companies audit the levies put on by local government. If it is too late to take the levy off the books, a gentlemen's agreement is made to hold the money and use it for the future; this bill would formalize this practice.

Rep. Williams wanted to know what the actual definition of an illegal levy was. Mr. Burr said that if more is levied than what was authorized, or if the voters authorize "X" sum of money and more is levied, this would constitute an illegal levy.

Sen. McCallum then closed, and the hearing on SENATE BILL 107 was closed.

SENATE BILL 17, sponsored by Sen. Bill Thomas, was then heard. This bill was the result of an interim study conducted by the Revenue Oversight Committee. See written testimony Exhibit "D." The Department of Revenue made some technical adjustments to the bill in the Senate Taxation Committee, and he felt the bill was now in good order.

Bob Raundal, State Tax Appeals Board, then rose in support of the bill. There are about 3,600 appeals now before the Board; mostly on the 34% issue and the rollback tax, whereby they have stayed the payment of the tax. This bill would give them the refund powers.

There were no OPPOSITIONS to the bill. Questions were asked. Rep. Williams asked Mr. Raundal, if this bill was passed, what effect it would have on SB 483 and HJR 52. He replied that he didn't see any.

Ellen Feaver said she didn't think this bill would have any impact on the 34% cases.

The sponsor then closed, and the hearing on SB 17 was closed. He submitted a publication entitled, "PAYMENT OF TAXES UNDER PROTEST," which had been published by the Legislative Council in November, 1980; see Bulky Testimony file.

The Committee then went into EXECUTIVE SESSION and SENATE BILL 183 was considered. Rep. Oberg moved that the bill BE CONCURRED IN. He submitted that the rollback tax wasn't workable, regretfully. Rep. Nordtvedt added that the Revenue Oversight Committee addressed this subject but couldn't find a way to make the tax workable. Rep. Neuman wanted to know what the status was of the bill which provided that the person selling the property had to certify that all taxes had been paid. Rep. Bertelsen said he didn't think this would take care of the problem. He pointed out that the rollback tax didn't always show up before the land was sold. The question was called for and the motion carried unanimously. Rep. Bertelsen agreed to carry the bill.

Rep. Williams then moved that SENATE BILL 231 BE CONCURRED IN. Motion carried unanimously. Rep. Williams agreed to carry the bill.

SENATE BILL 279 was then considered. Rep. Switzer said that the wine distributor should pay the tax on his loss just as the gasoline distributor pays the tax on his loss.

Rep. Zabrocki moved that the bill BE NOT CONCURRED IN. Rep. Williams rose in opposition to the motion. He didn't feel the beer wholesalers could be given this provision and not the wine distributors. Rep. Dozier submitted that the wholesaler would worry more about breakage, because the loss would be greater than the amount of the tax.

Rep. Brand wanted to know if there were many people who had both a beer and wine wholesale distributorship. Rep. Nordtvedt felt that most distributors had both.

Rep. Williams made a substitute motion that the bill BE CONCURRED IN. Motion carried with Reps. Brand, Burnett, Underdal, Devlin, and Zabrocki opposed. Rep. Williams agreed to carry the bill.

SENATE BILL 134 was considered. Rep. Underdal moved that it BE CONCURRED IN.

Rep. Nordtvedt asked Ms. Feaver if extensions would be charged interest. She replied that they would be, and the only loss in revenue would be what the State was making on its short-term investment of the funds. Rep. Zabrocki pointed out that the State would have to pay a higher interest rate because of the extension. Ms. Feaver replied that there was a six-month grace period for the State. The question was called for and the motion that the bill BE CONCURRED IN carried unanimously.

SENATE BILL 210 was then heard. The sponsor, Sen. Tom Towe, explained the bill. At present, if a taxpayer wants to appeal their taxes, for whatever reason, the taxes can be appealed and the appeal won on the State level. Only the taxes of the person are adjusted. It is easy for the Department of Revenue to concede the case and pay the people off because the impact is just with the case, and doesn't apply

Exhibit "J." The amendments clarified that there wouldn't be a double deduction. The amendments were moved; motion carried unanimously. Rep. Sivertsen then moved that SB 322 BE CONCURRED IN AS AMENDED; motion carried with Reps. Neuman and Nordtvedt opposed.

Rep. Sivertsen moved that SENATE BILL 192 be TABLED; motion carried with Reps. Roth and Brand opposed.

SENATE BILL 160 was then considered. Rep. Nordtvedt moved that it BE CONCURRED IN. Rep. Harrington questioned the validity of the Fiscal Note. The question was called for and the motion carried 9 - 8; see roll call vote.

Rep. Dozier moved that SENATE BILL 102 BE CONCURRED IN. Discussion took place. Rep. Dozier submitted that the fiscal impact wouldn't be very substantial. Rep. Nordtvedt moved an amendment to P. 3, line 9, at the request of the Senate. The amendment was unanimously adopted. The question was then called for on the bill; motion carried with Reps. Neuman and Oberg opposed.

Rep. Nordtvedt moved to amend SENATE BILL 77 back to 1983; motion carried with Rep. Neuman opposed. Rep. Nordtvedt then moved that SB 77 BE CONCURRED IN AS AMENDED; motion carried unanimously. Rep. Underdal agreed to carry the bill.

Rep. Harp moved that SENATE BILL 44 be TABLED; motion carried unanimously.

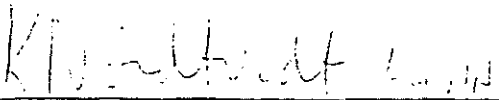
SENATE BILL 269 was considered. Joe Thares, Mtn. Bell, spoke about the amendment he had proposed; see Exhibit "K." Rep. Nordtvedt said that the sponsor of the bill was agreeable to the amendment. Rep. Zabrocki moved the amendment; motion carried unanimously. Rep. Harp then moved that SB 269 BE CONCURRED IN AS AMENDED; motion carried with Reps. Burnett and Neuman opposed.

Rep. Harrington moved that SENATE BILL 17 BE CONCURRED IN. Mr. Oppedahl said the purpose of the bill was to clarify the channel one would go through in an appeal. Also, the bill would allow the State Tax Appeals Board to order a refund of taxes paid under protest so that they could enforce their decisions. He pointed out that there was a technical amendment needed on P. 4, line 8 regarding the spelling of the word "judgment." The question was called for on the motion that the bill BE CONCURRED IN (AS AMENDED); motion carried unanimously.

SENATE JOINT RESOLUTION 10 was considered. Rep. Dozier moved that it BE CONCURRED IN; discussion took place. The question was called

for and the motion carried with Reps. Devlin, Roth, Vinger, Asay, Nordtvedt, Burnett, and Harp opposed. Rep. Oberg agreed to carry the resolution.

The meeting was adjourned at 10:45 a.m.



Rep. Ken Nordtvedt - Chairman

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STANDING COMMITTEE REPORT

April 10,

19 81

MR. SPEAKER

We, your committee on TAXATION

having had under consideration

SENATE

Bill No. 17

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE THE PROCEDURE FOR PAYMENT OF TAXES AND LICENSE FEES UNDER PROTEST; TO ALLOW THE STATE TAX APPEAL BOARD TO ORDER REFUND OF PROTESTED TAXES AND LICENSE FEES IN CERTAIN CASES; AMENDING SECTIONS 15-1-402, 15-1-403, 15-2-303, AND 15-16-601, MCA; AND REPEALING SECTIONS 15-1-401, 15-15-105, AND 15-15-106, MCA."

Respectfully report as follows: That

SENATE

Bill No. 17

third reading (blue), be amended as follows:

1. Page 4, line 8.
Following: "OF"
Strike: "JUDGEMENT"
Insert: "judgment"

AND AS AMENDED
BE CONCURRED IN

XOOXBASS